THE HON'BLE SRI JUSTICE C.V. RAMULU

Wednesday, 28th day of February,2007

W.P.No.27233 of 1997

Between:-

The Principal, A.P. Social
Welfare Residential School,
Penugupudi (V), Devarapally
Mandal, Visakhapatnam
District and others … Petitioners

and

The Presiding Officer,
Industrial Dispute Tribunal-cum-
Labour Court, Visakhapatnam
and another … Respondents

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ORAL ORDER:

This Writ Petition is filed seeking a Certiorari to call for the records relating to the Award dated 12-5-1997 passed in I.D.No.59 of 1994 on the file of Industrial Tribunal-cum-Labour Court, Visakhapatnam and to quash the same.

It appears, 2nd respondent was appointed as casual labourer from March,1997. Subsequently, he was appointed on daily wage basis with effect from 13-6-1989 and his services were terminated on 15-3-1991 without issuing any notice. Therefore, the 2nd respondent raised a dispute under Section 2-A(2) of the Industrial Disputes Act,1947 asserting that he worked for more than four years continuously and no notice of any kind was issued to him and the provisions of Section 25F of the Act were not complied with before his termination. Petitioner-Management filed a rejoinder opposing the claim petition and stated that the 2nd respondent herein worked on daily wage basis from 1-8-1987 to 12-4-1991 with number of breaks, without continuous service. Before the Tribunal, on his behalf, the workman examined himself as W.W.1 and got marked Exs.W1 and W2. On behalf of the Management, no oral or documentary evidence was let in. After a detailed consideration of the entire evidence on record, the Tribunal came to the conclusion that the officials of the petitioners herein are careless about the proceedings before it and

they failed to respond properly and deliberately withheld the concerned records from its perusal and further found that the workman worked continuously with the Management from 1987 to 1991 i.e. for more than one year; therefore, the workman was entitled for protection under Section 25-F of the Act. Admittedly, no notice of any kind was issued and no retrenchment compensation was paid to the workman before termination of his services and as such, the Management had violated the mandatory provisions of Section 25-F of the Act and thus ordered for reinstatement of the workman with continuity of service, but without back wages. Aggrieved by the same, the Management filed this Writ Petition.

Heard the learned counsel for the parties and perused the impugned Award and other material made available on record.

There is no denial that the workman had put in more than 240 days of service in the calendar year preceding the date of his termination. On the other hand, the Management had admitted that the workman worked from 1-8-1987 to 12-4-1991; of course asserted that he worked with breaks and not continuously; however, did not give any details nor led any evidence to that effect. Therefore, I am of the opinion that the Tribunal has not committed any error in coming to the conclusion that the provisions of Section 25-F of the Act are not complied with. Further, the Tribunal rightly directed the Management to reinstate the workman with continuity of service, but without any back wages. The Tribunal was very lenient towards the Management since having found that the provisions of Section 25-F of the Act are violated, it ought to have awarded back wages also. No ground is made out to interfere with such an Award passed by the Tribunal. The Writ Petition is devoid of merits and is liable to be dismissed.

Accordingly, the Writ Petition is dismissed. No order as to costs.

28-2-2007

prk